

REMARKS

FORMAL MATTERS:

Claims 1 and 3-20 remain pending after entry of the amendments set forth herein.

Claim 2 has been canceled.

Claim 1 has been amended to delete the word “biological” and specifically define the subject as being a plant or an animal. This is supported at page 4, line 5. Further, claim 1 has been amended to include punctuation and paragraph headings for clarification. Still further, claim 1 has been amended to incorporate limitations contained within previously pending now canceled claim 2. No new matter has been added.

Claim 5 has been amended to indicate that the subject is a human subject. This is specifically supported at page 4, line 5. No new matter has been added.

Because the amendments incorporate limitations contained within a previously pending, now canceled dependent claim, or are formal in nature, or specifically respond to a formal objection made by the Examiner the claim amendments are not believed to add new issues which would require further searching. Further, the claim amendments are believed to narrow any issues on appeal. Accordingly, the claim amendments are believed to be proper under 37 C.F.R. §1.116 and their entry is respectfully requested.

35 U.S.C. §112, FIRST PARAGRAPH REJECTION

Claims 1, 5, 6, 7, 9, 16 and 20 were rejected under 35 U.S.C. §112, first paragraph. The rejection is traversed as applied and as it might be applied to the presently pending claims.

The rejection was not applied against dependent claim 2. The limitations of claim 2 have been incorporated into claim 1. Accordingly, the rejection is believed to have been overcome.

The objection also indicated that the term “biological subject” was not specifically supported in the specification. Applicants do not acquiesce to the rejection. However, applicants wish to expedite prosecution. Accordingly, the term “biological” has been deleted from claim 1. The subject has been defined as being a plant or an animal as specifically supported on page 4, line 5. Accordingly, the objection is also believed to have been overcome.

35 U.S.C. §112, SECOND PARAGRAPH REJECTION

Claims 1-20 were rejected under 35 U.S.C. §112, second paragraph as being vague and indefinite. The rejection is traversed as applied and as it might be applied to the presently pending claims.

First, applicants have rewritten claim 1 in a manner which provides for paragraph indentations and punctuation in order to provide for greater clarity. Further, claim 1 has been amended to incorporate limitations contained within claim 2 thereby making the claim more specific with respect to the processing system disclosed and claimed. In view of these amendments reconsideration and withdrawal of the rejections is respectfully requested.

Notwithstanding the amendments applicants point out that in accordance with the claim to the processing system there is a processing apparatus and a processing agent. The processing agent is administered to a plant or animal. The processing agent has a distinctive signature characteristic which distinguishes it from other processing agents. The processing system tests the distinctive signature characteristic of the processing agent to selectively modify a subsequent operation of the processing apparatus based on results. In accordance with amended claim 1 the test functionality is effective to disable or at least partially disable a subsequent operation of the processing apparatus in the absence of the distinctive signature characteristic. Thus, the invention as now claimed is believed to be clear and distinct and meet the limitations of 35 U.S.C. §112, second paragraph. Accordingly, withdrawal of the rejection is respectfully requested.

In accordance with the invention where a subject has an agent administered to it which agent is going to achieve some desired results in conjunction with a processing apparatus, the user also arranges for the agent to have a distinctive signature. A distinctive signature is tested for by the processing apparatus. Then, the operation of the processing apparatus is modified based on the results. This allows the processing apparatus to have, for example, some additional functionality when a particular processing agent is used. The current claims encompass such an invention. Applicants understand that the invention is not limited to image processing which is specifically exemplified within the description. However, this is because the invention could be applied to other systems which also include an apparatus, a subject and a processing agent. For example, it could be applied in spectroscopy which is closely related to imaging, or other analysis techniques or processes.

REJECTION UNDER 35 U.S.C. §102

Claims 1-11, 16 and 18-20 were rejected under 35 U.S.C. §102(e) as anticipated by U.S. Patent Application 2002/0164063 A1 to Heckman. The rejection is traversed as applied and as it might be applied to the presently pending claims.

Heckman discloses a method of assaying the shape and structural features of cells. In accordance with applicants' invention there is a processing agent which has a distinctive signature characteristic which distinguishes it from other processing agents. Further, in applicants' system the processing system comprises a test for functionality for the distinctive signature characteristic of the processing agent. The system will selectively modify subsequent operation of the processing apparatus based on the test results. This is not taught by Heckman.

Specifically, Heckman does not disclose a processing system which comprises test functionality to test for the distinctive signature characteristic of the processing agent. Still further, Heckman does not disclose the ability of modifying subsequent operation of the processing system based on these test results. Still further, Heckman does not disclose a system wherein the test functionality will disable or at least partially disable subsequent operation of the processing apparatus in the absence of the distinctive signature characteristic.

Within amended claim 1 there is a clear indication that further processing is at least partially disabled based on test results. Applicants have not found such a feature within Heckman.

For all of the reasons indicated above Heckman does not anticipate the claimed invention and the rejection should be reconsidered and withdrawn.

35 U.S.C. §103 REJECTIONS

Claims 14 and 15 were rejected under 35 U.S.C. §103 as unpatentable over Heckman in view of Ochs et al. The rejection is traversed as applied and as it might be applied to the presently pending claims.

Ochs et al. present a method to identify patterns in large data matrices, specifically spectral data. In one example the spectral data are relaxographic images (magnetic resonance imaging technique resulting in spectral images). In the example contrast agents are used. In the relaxographic imaging, a contrast agent acts as a shift reagent, i.e. its purpose is to separate the spectral components due to the different tissue-classes. Accordingly, the basic concepts of applicants' invention are not taught within Heckman and Ochs does nothing more than refer to magnetic resonance imaging which applicants

recognize is referred to within claims 14 and 15. However, since the basic concepts of applicants' invention are not taught by Heckman et al. as explained above the rejection should be reconsidered and withdrawn.

Claims 12 and 13 were rejected under 35 U.S.C. §103 as unpatentable over Heckman in view of Ochs and further in view of Drukier. The rejection is traversed as applied and as it might be applied to the presently pending claims.

Drukier discloses a method for improving the sensitivity of chromatography by radiolabeling the compound which are the analytes of interest. Drukier teaches that technology exists to detect radio-isotopes in different energy-windows. However, Drukier does not combine them for any purpose and specifically does not suggest that one might have a primary purpose wherein the other one would have a secondary purpose. In accordance with the claim 12 there are two radio-isotopes of different characteristics to provide the distinctive signature. This is not taught by Drukier. Further, the basic concepts of applicants' invention are not taught by the combination of Drukier, Ochs and Heckman as explained above. Accordingly, the rejection should be reconsidered and withdrawn.

Claim 17 was rejected under 35 U.S.C. §103 as unpatentable over Heckman in view of Long et al. The rejection is traversed as applied and as it might be applied to the presently pending claims. Long has been cited for its disclosure of *in vitro* technology. Long discloses a method to suppress tumor cell growth and demonstrate viability using an *in vitro* rat model. The cited text indicates that after injection of a rat with a certain drug a tumor develops. Applicants do not believe that the disclosure is relevant with respect to the claimed invention. For the reasons indicated above with respect to Heckman the basic concepts of applicants' invention are not disclosed. In view of such reconsideration and withdrawal of the rejection is respectfully requested.

CONCLUSION

The term "biological" objected to by the Examiner has been deleted and the subject has been further defined as being a plant or an animal as specifically and literally supported in the specification. Further, limitations contained within claim 2 have been added to claim 1 and punctuation and paragraph headings have been added in order to more clearly define the invention. The 35 U.S.C. §102 and §103 rejections have been traversed by first pointing out amendments to claim 1 and thereafter indicating specific features of applicants' invention which are not taught in the cited art. Specifically, the art does not teach the use of a processing agent with a distinctive signature in a system which modifies


subsequent operation of the processing apparatus based on results obtained by processing that signature.
In view of such the rejections are believed to have been overcome.

Applicants submit that all of the claims are in condition for allowance, which action is requested.
If the Examiner finds that a telephone conference would expedite the prosecution of this application,
please telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this
communication, including any necessary fees for extensions of time, or credit any overpayment to
Deposit Account No. 50-0815, order number KEMP-011.

Respectfully submitted,
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